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May 17, 2002

Mary L. Cottrell, Secretary  
Department of Telecommunications and Energy  
One South Station, 2nd Floor  
Boston, MA 02110

Re: Petition of Massachusetts Electric Company for Approval of its Rate  
Reconciliation and Adjustment filing, D.T.E. 01-102

Dear Secretary Cottrell:

Pursuant to the briefing schedule established by the Department of Telecommunications and Energy ("Department") in this proceeding, the Attorney General submits this letter as his Initial Brief.

During evidentiary hearings, Mr. Michael Hager, a witness for Massachusetts Electric Company ("MECo" or the "Company"), testified that there is a dispute between the Company and its standard offer supplier, USGen New England, Inc. ("USGenNE"), concerning which company has the contractual obligation for the payment of energy uplift costs and related expenses under the Standard Offer power contract.<sup>1</sup> Tr., p. 6. Each company maintains that the other is responsible for uplift charges and related expenses. USGenNE refuses to pay for these costs and expenses. MECo is currently paying the uplift costs and collects the disputed costs and expenses from its customers through the retail transmission charge approved by the Department. *Id.* The Company anticipates that it will have incurred approximately \$30 million<sup>2</sup> in disputed

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<sup>1</sup> Second Amended and Restated Wholesale Standard Offer Service Agreement ("WSOS Agreement") between USGenNE and the National Grid USA Distribution Companies (Massachusetts Electric Company, Nantucket Electric Company, Granite State Electric Company and the Narragansett Electric Company). See Tr. p 10; DTE 00-109 Tr., Vol. 1, pp. 22-27; Exh. AG-1-1.

<sup>2</sup> During last year's reconciliation proceedings, DTE 00-109, the Company testified that it had included in its 2001 retail transmission rates approximately \$15 million in disputed charges that it had paid. As of November 2001, when the Company filed its rate reconciliation and adjustment petition, that figure had increased to approximately \$23 million. See Exh. AG 1-1; Tr. p. 17.

costs by December 31, 2002. Exh. AG 1-1. In an effort to resolve this dispute, the Company (National Grid) filed a formal arbitration demand pursuant to the dispute resolution provision contained in the WSOS Agreement on March 27, 2002. *See* Exh. AG 1-1.

The Company has not presented any testimony or arguments supporting the current recovery of the disputed costs. *Id.* The Department should not require MECo's customers to pay for costs and expenses that the Company has determined another party should bear. The dispute resolution process between National Grid and USGenNE has been a long one. According to the Company's witness, it may be prolonged by at least another year in arbitration proceedings. Allowing recovery of these costs on an on-going basis deprives MECo of any incentive to pursue its position vigorously. The Department should remove all disputed uplift costs and related expenses from the Company's retail rates effective with the Company's next scheduled rate changes, which will take place on January 1, 2003.<sup>3</sup>

The Department could accomplish this result by crediting transmission costs with the amount of revenue representing disputed costs that have been collected from customers since the beginning of the dispute. The Department should defer the Company's recovery until there is a final resolution of the issue and the Department has ruled on the propriety and prudence of these costs.<sup>4</sup>

Very truly yours,

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Wilner Borgella, Jr.  
Assistant Attorney General

WB/wb

cc: John Geary, Hearing Officer (w/enc.)  
Service List (w/enc.)

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<sup>3</sup> The Rhode Island Public Utilities Commission ("Commission") has denied the inclusion in retail rates of comparable disputed costs of Narragansett Electric Company, an affiliate, like MECo, of National Grid. *See* Order No. 16275, pp. 7-8 (June 1, 2000) (where the Commission held that disputed transmission charges should be removed from the calculation of the transmission adjustment factor); Order No. 16916, p. 38 (February 15, 2002) (where the Commission deferred recovery by Narragansett Electric Company of disputed transmission charge refund pending a resolution of the dispute).

<sup>4</sup> *See Western Massachusetts Electric Company*, D.T.E. 96-8C, pp. 7, 8 (1996) (Department's approval of a settlement regarding deferral of the recovery of certain disputed nuclear outage costs in reconciling fuel clause).